

ENTERED

March 18, 2025

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF	§	CIVIL ACTION No
AMERICA <i>ex rel</i>	§	4:23-cv-01291
DEIDRE GENTRY,	§	
Plaintiff,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
ENCOMPASS HEALTH	§	
REHABILITATION	§	
HOSPITAL OF	§	
PEARLAND LLC,	§	
Defendant.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION AND ORDER**

Plaintiff Deidre Gentry, as relator, brought this *qui tam* suit under the False Claims Act against her former employer, Defendant Encompass Health Rehabilitation Hospital of Pearland, LLC. Dkt 1.

The case was referred for pretrial management to Magistrate Judge Yvonne Y. Ho. Dkt 10. Plaintiff thereafter amended her complaint twice. Dkts 22 & 28. Defendant moved to dismiss the complaint for failure to state a claim. Dkt 33.

Pending separately are a Memorandum and Recommendation and an Order from Judge Ho. In sum, these rulings:

- Recommend granting Defendant's motion (Dkt 33) to dismiss Plaintiff's amended complaint, and denying Plaintiff's request for leave to amend;

- Strike Plaintiff's reply (Dkt 45) to Defendant's objections to that ruling; and
- Deny as moot Defendant's motion (Dkt 46) for leave to file a surreply to Plaintiff's reply.

Dkts 42 & 48. Plaintiff filed an objection to the Memorandum and Recommendation. Dkt 43. No objection was filed as to the Order, which dealt with briefing issues as to those objections. It will thus be considered as related to the objection that was filed.

As to the Order, a district court will set aside a non-dispositive order of a magistrate judge to which a party has specifically objected only if it is clearly erroneous or contrary to law. See FRCP 72(a) & 28 USC § 636(b)(1)(A); see also *Castillo v Frank*, 70 F3d 382, 385 (5th Cir 1995).

The Order is clear on the pertinent facts and correctly applies controlling law. As such, the Order by the Magistrate Judge will be adopted as the Order of this Court. Dkt 48.

As to the Memorandum and Recommendation, a district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

The findings and conclusions of a magistrate judge needn't be reiterated on review. See *Keotting v Thompson*, 995 F2d 37, 40 (5th Cir 1993). Still, it is noted here that Judge Ho concluded, after considerable detail and analysis, that the "allegations fail to adequately plead that Encompass engaged in fraudulent conduct that led to submission of false claims." Dkt 42 at 6; see also *id* at 7–23 (analysis).

Plaintiff's objections to that ruling are substantially similar to argument made during briefing. Dkt 43. But *de novo* review isn't invoked by simply re-urging arguments contained in the underlying motion. *Edmond v Collins*, 8 F3d 290, 293 n7 (5th Cir 1993); see also *Smith v Collins*, 964 F2d 483, 485 (5th Cir 1992) (finding no error in failure to consider objections because plaintiff merely reargued the legal arguments raised in his original petition); *Williams v Woodhull Medical & Mental Health Center*, 891 F Supp 2d 301, 310–11 (EDNY 2012) (*de novo* review not warranted for conclusory or general objections or which merely reiterate original arguments). Instead, where the objecting party makes only conclusory or general objections, or simply reiterates original arguments, review of the memorandum and recommendation may permissibly be for clear error only.

No clear error appears upon review and consideration of the Memorandum and Recommendations, the record, and the applicable law.

Even though that's all the review required, the Court has nevertheless also examined the objections *de novo* and finds that they lack merit for the reasons stated by the Magistrate Judge.

The objections by Plaintiff will be overruled. Dkt 43. As such, the Memorandum and Recommendation of the Magistrate Judge will be adopted as the Memorandum and Order of this Court. Dkt 42.

* * *

The Order of the Magistrate Judge is ADOPTED as the Order of this Court. Dkt 48. The related motions by Plaintiff Deidra Gentry are DENIED. Dkts 45 & 46.

The objections by Plaintiff to the Memorandum and Recommendation of the Magistrate Judge are OVERRULED. Dkt 43.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 42. The related motion by

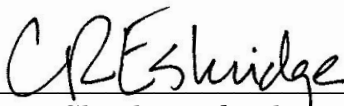
Defendant Encompass Rehabilitation Hospital of
Pearland, LLC, is GRANTED. Dkt 33.

This action is DISMISSED WITH PREJUDICE.

A FINAL JUDGMENT will enter separately.

SO ORDERED.

Signed on March 18, 2025, at Houston, Texas.



Hon. Charles Eskridge
United States District Judge